

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

Lanard Toys Limited

Plaintiff,

vs.

Menard, Inc.

and

RMS International (USA) Inc.

Defendants.

CASE NO. 4:17-cv-00550-SRB

**LANARD TOYS LIMITED REPLY TO MENARD, INC. AND RMS
INTERNATIONAL (USA) INC.'S COUNTERCLAIMS**

Comes NOW Plaintiff, Lanard Toys Limited (“Lanard”), by and through its attorneys, and hereby answers, replied and responds to the Counterclaims of Defendants Menard, Inc. (“Menard”) and RMS International (USA) Inc. (“RMS”), collectively (“Defendants”):

THE PARTIES

1. Lanard admits the allegation contained in paragraph 1 of Defendants’ counterclaims.
2. Lanard admits the allegation contained in paragraph 2 of Defendants’ counterclaims.

3. Lanard admits the allegation contained in paragraph 3 of Defendants' counterclaims.

JURISDICTION AND VENUE

4. Lanard admits the allegation contained in paragraph 4 of Defendants' counterclaims.

5. Lanard admits the allegation contained in paragraph 5 of Defendants' counterclaims.

COUNTERCLAIM COUNT I DECLARATORY JUDGMENT OF NON INFRINGEMENT

6. Lanard incorporates by reference all of its prior admissions, denials, statements, and allegations set forth in paragraphs 1 through 5 above as if restated, repeated and set forth herein.

7. Lanard admits that Defendants' counterclaims purport to be for declaratory relief. Lanard denies any remaining allegations of Paragraph 7.

8. Lanard denies the allegations contained in Paragraph 8 of Defendants counterclaims.

9. Lanard denies the allegations contained in Paragraph 9 of Defendants counterclaims.

COUNTERCLAIM COUNT II DECLARATORY JUDGMENT THAT LANARD'S TRADEMARK IS INVALID

10. Lanard incorporates by reference all of its prior admissions, denials, statements, and allegations set forth in paragraphs 1 through 9 above as if restated, repeated and set forth herein.

11. Lanard admits that Defendants' counterclaims purport to be for declaratory relief. Lanard denies any remaining allegations of Paragraph 11.

12. Lanard denies the allegations contained in Paragraph 12 of Defendants counterclaims.

13. Lanard denies the allegations contained in Paragraph 13 of Defendants counterclaims.

COUNTERCLAIM COUNT III
CANCELLATION OF US TRADEMARK REGISTRATION NO. 5,046,808

14. Lanard incorporates by reference all of its prior admissions, denials, statements, and allegations set forth in paragraphs 1 through 13 above as if restated, repeated and set forth herein.

15. Lanard admits that Defendants' counterclaim purports to be for cancellation of Lanard's Trademark Registration No. 5,046,808. Lanard denies any remaining allegations of Paragraph 15.

16. Lanard denies the allegations contained in Paragraph 16 of Defendants counterclaims.

17. Lanard denies the allegations contained in Paragraph 17 of Defendants counterclaims.

AFFIRMATIVE DEFENSES

1. Defendants lack standing to pursue the asserted claims.
2. Defendants have failed to state a claim upon which relief can be granted.
3. Defendants' claims are barred by the statute of limitations.
4. Defendants' counterclaims are barred by the doctrine of unclean hands.
5. Defendants have not suffered any damages.
6. Defendants' counterclaims are barred, in whole or in part, by the doctrine of estoppel.
7. Defendants' counterclaims are barred in that Defendants seek excessive damages from Lanard that would result in Defendants unjust enrichment.
8. Defendants' counterclaims are barred, in whole or in part, by the doctrine of estoppel.

9. All possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this Answer and, therefore, Lanard reserves all rights to amend this Answer to allege additional affirmative defenses if subsequent investigation so warrants.

WHEREFORE, Lanard respectfully prays that the Court deny the relief sought in Defendants' Counterclaim, that the Counterclaims be dismissed and/or stricken, that the costs of this action and Lanard's attorneys fees be assessed against Defendants, and that the Court grant such other and further relief as the Court deems just and proper under the circumstances.

Dated: September 22, 2017

Respectfully Submitted,

By: /s/ Karin A. Curtis
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Admitted Pro Hac Vice
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CERTIFICATE OF SERVICE

A copy of the foregoing was filed on ECF and served thereby on counsel of record for the other parties on September 22, 2017.

/s/ Karin A. Curtis
Counsel for Plaintiff